IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 9 of 2002

with

CRIMINAL REVISION APPLICATION No 10 of 2002

with

CRIMINAL REVISION APPLICATION No 32 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NAVINCHANDRA VRAJLAL ZINJUVADIA

Versus

STATE OF GUJARAT

Appearance:

MR CL SONI for Petitioner No. 1

PUBLIC PROSECUTOR for Respondent No. 1

MR SHAKEEL A QURESHI for Respondents No. 2-5

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 20/03/2002

COMMON ORAL JUDGEMENT

All these applications are disposed of by this common judgment as they are arising out of the common FIR.

Criminal Revision Application No.9/02 is filed by the father of deceased Heenaben against the respondents-accused, who are father-in-law and mother-in-law of deceased Heenaben. Criminal Revision Application No.10/02 is filed by the complainant against uncle and sister-in-law of deceased Heenaben. Criminal Revision Application No.32/02 is filed by the complainant against the husband of the deceased.

In the instant case, the marriage of deceased Heenaben took place on 26.1.2001 and the deceased died on 18.12.2001 i.e. within a period of less than one year leaving behind her three months old son. The learned Judge has exercised his discretion in releasing respondents-accused on bail by passing separate orders on the bail applications submitted by the respondents-accused before him. The same are challenged by way of these revision petitions by the complainant.

The State of Gujarat has not challenged the aforesaid orders of releasing respondents-accused on bail. It is no doubt true that the complainant can always challenge the order of grant of bail passed in favour of the respondents-accused. But it is well settled by the Hon'ble Supreme Court that the court has jurisdiction to grant bail and if the court has exercised its discretion in favour of the respondents-accused, then it should not be easily interfered with by the High Court.

Learned counsel Shri Soni for the petitioners in all these petitions submitted that it was premature on the part of the learned Judge to come to the conclusion that the deceased died due to liver disease. He submitted that the learned Judge should have waited till the report of viscera of deceased is received. He submitted that when the Medical Officer, who performed postmortem notes of deceased Heenaben himself was not in a position to arrive at a conclusion regarding the cause of death, then it was not proper on the part of the learned Judge to come to the conclusion that she had died because of liver disease.

Having carefully gone through the impugned orders passed by the learned Judge releasing respondents-accused on bail it appears that the learned Judge considered medical papers of deceased Heenaben which shows that deceased-Heenaben was suffering from liver disease. From the impugned orders releasing the respondents-accused on bail it nowhere appears that the learned Judge has definitely come to the conclusion that deceased-Heenaben died due to liver disease. Taking into consideration the other aspects of the case, if the learned Judge has exercised his discretion in favour of the respondents-accused, then this court would not interfere with such discretionary orders.

Before parting, I must state that if the bail was not granted in favour of the respondents-accused, then perhaps this court would not have interfered with such orders and this court would not have granted bail to the accused in such type of cases where the deceased died within less then one year of marriage. But when the Trial Court exercised its jurisdiction and if it is found that while exercising its discretion if the Trial Court has not not exceeded its jurisdiction, then though this court may have different view in the matter, would not interfere with such discretionary orders passed by the learned Judge.

In view of the above discussion, these petitions fail and the same are dismissed. Rule discharged in all these matters.

(B.J.Shethna, J.)

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